

Exhibit 58

[Page 1]

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

HEALEY ALTERNATIVE)
INVESTMENT PARTNERSHIP,)
)
Plaintiff,)
)
Vs.) No. 10-01567
) (RMB) (KMW)
ROYAL BANK OF CANADA and)
RBC DOMINION SECURITIES)
CORPORATION a/k/a RBC)
CAPITAL MARKETS)
CORPORATION,)
)
Defendants.)
-----)

VIDEOTAPED
DEPOSITION OF PETER BERLANT
New York, New York
November 1, 2013

Reported by:
JENNIFER WIELAGE, CCR, CRR, RPR
JOB NO. 113714

<p>1 November 1, 2013</p> <p>2 10:10 a.m.</p> <p>3</p> <p>4 Deposition of PETER BERLANT, held</p> <p>5 at the offices of FOX ROTHSCHILD</p> <p>6 LLP, 100 Park Avenue, New York, New</p> <p>7 York, pursuant to Notice, before</p> <p>8 JENNIFER L. WIELAGE, a Certified Court Reporter,</p> <p>9 Realtime Reporter and Notary Public of the State</p> <p>10 of New York.</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">[Page 2]</p>	<p>1 I N D E X</p> <p>2</p> <p>3 W I T N E S S</p> <p>4</p> <p>5 Testimony of:</p> <p>6 PETER BERLANT PAGE NO.</p> <p>7 EXAMINATION BY MR. REGAN: 7</p> <p>8</p> <p>9</p> <p>10 E X H I B I T S</p> <p>11</p> <p>12 NUMBER DESCRIPTION PAGE</p> <p>13</p> <p>14 RBC-132 Expert Report of Peter 28</p> <p>15 Berlant</p> <p>16 RBC-133 RBC 118693 through RBC 59</p> <p>17 118715</p> <p>18 RBC-134 September 23, 2011 66</p> <p>19 Opinion by Judge Bumb</p> <p>20 RBC-135 Basket Report for June 159</p> <p>21 2013</p> <p>22 RBC-136 RBC 000753 through 184</p> <p>23 000763</p> <p>24 RBC-137 RBC 119415 through RBC 194</p> <p>25 119431</p> <p>RBC-138 First page of Report, 226</p> <p>followed by three basket</p> <p>reports</p> <p>RBC-139 RBC 117270 through RBC 233</p> <p>117283</p> <p>RBC 117283 233</p> <p>RBC-140 Four-page Document 235</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">[Page 4]</p>
<p>1 A P P E A R A N C E S:</p> <p>2 FOX ROTHSCHILD LLP</p> <p>3 Attorneys for Plaintiff</p> <p>4 100 Park Avenue - Suite 1500</p> <p>5 New York, New York 10017</p> <p>6 (212) 878-7900</p> <p>7 BY: LAUREN J. TALAN, ESQ.</p> <p>8</p> <p>9 KATTEN MUCHIN ROSENMAN LLP</p> <p>10 Attorneys for Defendants</p> <p>11 575 Madison Avenue</p> <p>12 New York, New York 10022-2585</p> <p>13 (212) 940-8800</p> <p>14 BY: WILLIAM M. REGAN, ESQ.</p> <p>15 BY: BRIAN L. MULDREW, ESQ.</p> <p>16</p> <p>17 ALSO PRESENT: HENRY MARTE - Videographer</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">[Page 3]</p>	<p>1 DEPOSITION SUPPORT INDEX</p> <p>2 DIRECTION TO WITNESS NOT TO ANSWER</p> <p>3</p> <p>4 Page Line</p> <p>5</p> <p>6 REQUEST FOR PRODUCTION OF DOCUMENTS</p> <p>7</p> <p>8 Page Line</p> <p>9 238 23</p> <p>10</p> <p>11 STIPULATIONS</p> <p>12</p> <p>13 Page Line</p> <p>14</p> <p>15 QUESTION MARKED</p> <p>16</p> <p>17 Page Line</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">[Page 5]</p>

[2] (Pages 2 to 5)

<p>1 Q. At present, Anchin Block is 2 how big, how many people? 3 A. Approximately 350 people. 4 Q. And how many partner level 5 people? 6 A. 55. 7 Q. And aside from the hedge 8 fund area, what other practice areas does 9 Anchin Block focus on? 10 A. We have heavy concentrations 11 in construction, real estate, high net 12 worth, law firms as clients is a big 13 practice area for us, manufacturing, 14 distribution, import/export, apparel and 15 textile, diamond jewelry. We really run 16 the gamut. Not a lot of industries we 17 don't touch. 18 Q. Prior to this case, have you 19 ever done any work for Healey Alternative 20 Investment Partnership? 21 A. No. 22 Q. Have you ever done any work 23 for any other Healey family entity? 24 A. No. 25 Q. Have you ever done any work [Page 22]</p>	<p>1 witness before? 2 A. Expert advisor. 3 Q. What do you mean? 4 A. There was a matter involving 5 a Madoff entity, and I was called in by 6 the trustee for one of the funds to look 7 over some audit work papers and give some 8 advices to area where I believed there 9 was potential exposure to the accounting 10 firm. 11 Q. Did you prepare a written 12 report of any kind for the trustee in 13 that matter? 14 A. No. 15 Q. And you never testified in 16 that matter at deposition or at trial? 17 A. No, sir. 18 Q. Have you ever prepared an 19 expert report prior to the one you 20 prepared for this case? 21 A. I have not. 22 Q. So I think you said you had 23 given four or five depositions; is that 24 correct? 25 A. Approximately. [Page 24]</p>
<p>1 for Robert Healey or any Healey family 2 member? 3 A. No. 4 Q. How about for Viking 5 Associates? 6 A. No. 7 Q. Have you ever worked with 8 the Fox Rothschild firm before? 9 A. Yes. 10 Q. In what capacity? 11 A. We have some mutual clients. 12 Q. Have you ever served as an 13 expert witness in a Fox Rothschild matter 14 before? 15 A. No. 16 Q. Have you ever provided 17 accounting advice to the Fox Rothschild 18 firm? 19 A. No. 20 Q. Just an overlap of clients? 21 A. Just an overlap of clients. 22 Q. I think earlier we talked 23 about prior deposition testimony, but 24 depositions aside, prior to this case, 25 have you ever been retained as an expert [Page 23]</p>	<p>1 Q. Can you tell me what were 2 the matters where you testified in? 3 A. There were two divorce 4 matters. There was a -- it really boiled 5 down to an accident, collision matter. 6 There was a professional malpractice case 7 involving some poorly-prepared financial 8 statements for a client of mine against 9 her former accountant and that may be the 10 extent of it. 11 Q. Did you ever give any trial 12 testimony in any of those matters? 13 A. No. They were all settled. 14 Q. Have you ever testified at 15 an arbitration? 16 A. No. 17 Q. Do you know if anyone else 18 at Anchin Block has testified as an 19 expert in a matter involving hedge fund 20 linked derivatives? 21 A. I'm not aware of anybody. 22 Q. Have you published any 23 books, articles or treatises? 24 A. No. 25 Q. Blogs, Internet blogs, web [Page 25]</p>

[7] (Pages 22 to 25)

<p>1 postings, anything like that?</p> <p>2 A. No.</p> <p>3 Q. Your CV lists approximately</p> <p>4 21 speeches and presentations at</p> <p>5 conferences from 1996 through 2012.</p> <p>6 Is that a complete list or</p> <p>7 is it a selected presentation?</p> <p>8 A. It's pretty complete. If</p> <p>9 one or two were missed, it was</p> <p>10 inadvertent.</p> <p>11 Q. Did any of the speeches or</p> <p>12 presentations concern hedge fund-linked</p> <p>13 derivatives?</p> <p>14 A. No, not specifically.</p> <p>15 Q. Generally?</p> <p>16 A. Generally, we've been</p> <p>17 involved in the hedge fund business for a</p> <p>18 while, so at some point update from an</p> <p>19 expert panel might have included some</p> <p>20 concept of SWAPs and derivatives, but it</p> <p>21 would have been a minor point within a</p> <p>22 broader outline.</p> <p>23 Q. Would you have been the</p> <p>24 prosecutor on SWAPs and derivatives?</p> <p>25 A. Probably not. It would have</p> <p style="text-align: right;">[Page 26]</p>	<p>1 CPAs Investment Companies Conference, my</p> <p>2 apologies, and I don't know with</p> <p>3 certainty whether that would have been</p> <p>4 covered or not. I'd have to go back to</p> <p>5 the outlines if I could even get them.</p> <p>6 Q. Okay.</p> <p>7 MR. REGAN: Please mark as</p> <p>8 RBC Exhibit 132 a 48-page document</p> <p>9 titled Expert Report of Peter L.</p> <p>10 Berlant.</p> <p>11 (Exhibit RBC-132, Expert</p> <p>12 Report of Peter Berlant, was</p> <p>13 marked for Identification by the</p> <p>14 court reporter.)</p> <p>15 BY MR. REGAN:</p> <p>16 Q. Mr. Berlant, please take a</p> <p>17 moment to review the document that we've</p> <p>18 marked as Exhibit 132 and if you can, can</p> <p>19 you confirm for me what it is?</p> <p>20 A. It's the report I submitted.</p> <p>21 Q. If I can direct your</p> <p>22 attention to page 43, there's an</p> <p>23 inscription on that page of your prior</p> <p>24 experience, correct?</p> <p>25 A. That's correct.</p> <p style="text-align: right;">[Page 28]</p>
<p>1 been a panel.</p> <p>2 Q. You might have been the</p> <p>3 chair of the panel or a chair of the</p> <p>4 conference?</p> <p>5 A. I was -- at that point I may</p> <p>6 have been the moderator on the panel or</p> <p>7 one of the participants in the panel and</p> <p>8 you pull your topics together and then</p> <p>9 you draw straws as to who presents which</p> <p>10 piece.</p> <p>11 Q. With regard to the one that</p> <p>12 concerned SWAPs or derivatives, do you</p> <p>13 know if there were any written</p> <p>14 presentations -- written materials handed</p> <p>15 out?</p> <p>16 A. There would have been.</p> <p>17 Q. Do you have a copy of those</p> <p>18 written materials?</p> <p>19 A. Not with me, and I don't</p> <p>20 know if I could dig them up.</p> <p>21 Q. Do you know which conference</p> <p>22 that was?</p> <p>23 A. Well, I'm going to guess it</p> <p>24 was probably within the last three or</p> <p>25 four years that New York State Society of</p> <p style="text-align: right;">[Page 27]</p>	<p>1 Q. In the second paragraph,</p> <p>2 one, two, three, four, five lines down,</p> <p>3 there's a sentence that starts: As a</p> <p>4 frequent lecturer, Peter has spoken</p> <p>5 before various organizations and</p> <p>6 professional groups on topics that have</p> <p>7 included -- and then there's a long list.</p> <p>8 Included in that list is the</p> <p>9 topic Reporting For Derivative Financial</p> <p>10 Instruments.</p> <p>11 Is that a speech that you</p> <p>12 have given?</p> <p>13 A. That is.</p> <p>14 Q. Can you tell me more about</p> <p>15 it? When was it given?</p> <p>16 A. That one was probably a very</p> <p>17 long time ago. I would have to go back</p> <p>18 through, and at that point we were</p> <p>19 dealing with, you know, basic SWAPs,</p> <p>20 basic derivatives, nothing --</p> <p>21 Q. Interest rate SWAPs, that</p> <p>22 kind of thing?</p> <p>23 A. Very similar, currency</p> <p>24 SWAPs.</p> <p>25 My recollection is it</p> <p style="text-align: right;">[Page 29]</p>

[8] (Pages 26 to 29)

<p>1 Ralph DeSena to Joseph M. Pastore, III, 2 dated March 18, 2010 that an elective 3 termination had occurred and, therefore, 4 the provisions under Section 6, the final 5 option value and Section 7 option 6 settlement of the agreement should apply. 7 My apologies. I didn't 8 realize that was one full sentence. My 9 question focuses way back in the 10 beginning of the sentence where you 11 referred to: My experience and 12 familiarity with the operation of the 13 similar agreements. 14 What are the similar 15 agreements that you reference in 16 Paragraph 13? 17 A. Those would be basket SWAPs, 18 several of my mutual fund clients engage 19 in basket SWAPs. 20 Q. What is a basket SWAP? 21 A. It's where you're -- the 22 investment or the return on the one side 23 is based upon a pool of investments, not 24 a single security. 25 Q. And are any of those basket [Page 94]</p>	<p>1 Q. And which entities are the 2 sellers of these basket SWAPs? 3 A. For the most part, State 4 Street Bank and I can't tell you which 5 legal entity within State Street Bank but 6 one of the State Street entities. 7 Q. And which mutual funds are 8 their purchasers? 9 MS. TALAN: Objection. 10 MR. REGAN: We can designate 11 this all confidential. 12 A. Yeah, I have a problem with 13 identifying clients, so if we can avoid 14 it, I would prefer. I mean this day and 15 age, any identifiable information, 16 confidential -- I don't know if I can or 17 I can't answer that question. 18 Q. I think we can live without 19 the answer for the moment and if that 20 changes, we can come back to there. 21 What types of agreements -- 22 what agreements govern these basket 23 SWAPs? 24 A. It would be the similar -- 25 there would be an overlying agreement [Page 96]</p>
<p>1 SWAPs sold by RBC? 2 A. No. 3 Q. Are the pools of investments 4 that are in these basket SWAPs hedge 5 funds? 6 A. No. 7 Q. What are the securities that 8 are in the basket SWAPs? 9 A. I have seen SWAPs on fixed 10 income secured, bonds, corporate bonds, 11 as well as equities. 12 Q. Anything else? 13 A. No, that covers it. 14 Q. Approximately how many of 15 these basket SWAPs have you had a reason 16 to audit over the course of your career? 17 MS. TALAN: Objection. 18 BY MR. REGAN: 19 Q. Let me back up a step. Have 20 you had occasion to audit any of these 21 basket SWAPs over the course of your 22 career? 23 A. The answer is yes. I'm 24 doing a mental count of probably 20 to 25 25. [Page 95]</p>	<p>1 and, typically, the Master Agreement 2 would be employed. 3 Q. Are you a member of ISDA? 4 A. No. 5 Q. Have you personally ever 6 been a buyer of a hedge fund linked 7 derivative? 8 A. No. 9 Q. A seller? 10 A. No. 11 Q. Have you ever audited a 12 buyer of hedge fund linked derivatives? 13 A. No. 14 Q. Seller? 15 A. No. 16 Q. Have you ever audited an 17 entity that owned an RBC call option? 18 A. Not that I'm aware of. 19 Q. A Zurich call option? 20 A. Not that I'm aware of. 21 Q. A SOC-GEN option? 22 A. Not that I'm aware of. 23 Q. In any of the basket SWAPs 24 that you dealt with, did any of -- does 25 any of your audit experience involve a [Page 97]</p>

[25] (Pages 94 to 97)

<p>1 valuation price?</p> <p>2 A. Based -- same result.</p> <p>3 Q. How so?</p> <p>4 A. In each -- in either case,</p> <p>5 it's a full withdrawal from -- it's a</p> <p>6 presumed full withdrawal from each and</p> <p>7 every one of those funds.</p> <p>8 So I don't see a difference</p> <p>9 in that final valuation. It doesn't</p> <p>10 generate a valuation difference.</p> <p>11 Q. I think I'm not being clear</p> <p>12 with my questions.</p> <p>13 Prior to the September 19,</p> <p>14 2008 e-mail, RBC was required to value</p> <p>15 the funds listed on that document</p> <p>16 pursuant to the definition of Option</p> <p>17 Value in Section 5, correct?</p> <p>18 A. Agreed.</p> <p>19 Q. Healey sends that September</p> <p>20 19 e-mail, and now Healey is required to</p> <p>21 value those funds using the definition</p> <p>22 required in Section 6?</p> <p>23 A. You said --</p> <p>24 Q. Final Valuation Price?</p> <p>25 A. You said --</p> <p style="text-align: right;">[Page 106]</p>	<p>1 based upon what it's always been based</p> <p>2 upon or could be based upon, what it's</p> <p>3 always been based upon.</p> <p>4 Had they -- had Healey made</p> <p>5 a request at that time for two basket</p> <p>6 changes, would RBC not have continued to</p> <p>7 do what they were doing? Had they made a</p> <p>8 request for five, for seven, for nine, at</p> <p>9 what point did the -- did it tip and it</p> <p>10 changes and what changed? That's the</p> <p>11 part that makes no -- there seems, in my</p> <p>12 mind, to be no difference in valuation</p> <p>13 between the two methodologies.</p> <p>14 Q. You said RBC changed -- or</p> <p>15 historically, RBC had been relying on the</p> <p>16 values provided by the underlying funds.</p> <p>17 But in each of the 31 removal instances</p> <p>18 that you looked at, RBC submitted a</p> <p>19 redemption notice. It didn't just take</p> <p>20 the monthly NAV number?</p> <p>21 A. It submitted a redemption</p> <p>22 request, redemption notice, their</p> <p>23 business, not Healey's business. They</p> <p>24 submitted a redemption notice. They</p> <p>25 received a report that said here's what</p> <p style="text-align: right;">[Page 108]</p>
<p>1 Q. RBC --</p> <p>2 A. You said --</p> <p>3 Q. Let me strike the question.</p> <p>4 Let me redo the question.</p> <p>5 Healey sends the September</p> <p>6 19th e-mail and then RBC is required to</p> <p>7 value those funds using the process</p> <p>8 outlined in Section 6, Final Valuation</p> <p>9 Price?</p> <p>10 MS. TALAN: Objection.</p> <p>11 A. No, that's not what I said.</p> <p>12 I'm saying that whether they used the</p> <p>13 Section 5 valuation process, which is</p> <p>14 what they have historically been doing on</p> <p>15 partial withdrawals, full withdrawals,</p> <p>16 basket changes, whatever you want to call</p> <p>17 them, they have historically been using a</p> <p>18 consistent methodology wherein they rely</p> <p>19 on the underlying values by the managers.</p> <p>20 And I'm saying that what happened</p> <p>21 September 19th, nothing -- whether you</p> <p>22 call it a termination or not, nothing</p> <p>23 changed. Nothing changed. The valuation</p> <p>24 of the underlying -- the underlying --</p> <p>25 presumed underlying investments is still</p> <p style="text-align: right;">[Page 107]</p>	<p>1 you're going to get. We found</p> <p>2 differences between what RBC got and what</p> <p>3 Healey got.</p> <p>4 So if you want to say that</p> <p>5 RBC was somehow adjusting the values to</p> <p>6 some other number based upon Paragraph</p> <p>7 5's provisions which allowed them to</p> <p>8 change the value, they weren't changing</p> <p>9 them on an ongoing basis; they were only</p> <p>10 changing them then when it came --</p> <p>11 when -- with respect to full withdrawals</p> <p>12 or full basket changes. Now --</p> <p>13 Q. How do you know that?</p> <p>14 A. Well, you tell me. I mean,</p> <p>15 I'm looking at 31 -- 31 changes. Of the</p> <p>16 31 changes, I believe it was 21 of them,</p> <p>17 there were discrepancies between what RBC</p> <p>18 had been doing historically --</p> <p>19 individually not big differences.</p> <p>20 Perhaps even clerical errors, I don't</p> <p>21 know. I can't speculate as to why it</p> <p>22 happened; only that it did happen. Okay?</p> <p>23 So was RBC making adjustment</p> <p>24 to those valuations upon withdrawal or</p> <p>25 were they simply making clerical errors,</p> <p style="text-align: right;">[Page 109]</p>

[28] (Pages 106 to 109)